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OFFICE OF PETITIONS

In re Application of

GODDARD et al.

LETTER REGARDING

Application No. 10/063,578

PATENT TERM ADJUSTMENT

Filed: May 3, 2002

Attorney Docket No. P3230R1C001-168:

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT CALCULATION," filed March 11, 2008. Pursuant to applicants' duty of good faith and candor to the Office, applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the determination of patent term adjustment is granted.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is 276 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 12, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 384 days. On March 11, 2008, applicants submitted the instant comment. Applicants state no basis for the request for review of the patent term adjustment.

The application history has been reviewed and it has been determined that the initial patent term adjustment of 384 days is incorrect.

On August 24, 2006, applicants submitted a "SUPPLEMENTAL RESPONSE" after filing an initial reply on July 3, 2006. The record does not support a conclusion that the examiner expressly requested the submission of the "SUPPLEMENTAL RESPONSE." Thus, applicants failed to engage in reasonable efforts to conclude processing or examination of the application within the meaning of 37 CFR 1.704(c)(8). Accordingly, the period of adjustment should be reduced by 52 days, the number of days beginning on the day after the date the initial reply was filed, July 4, 2006, and ending on the date that the "SUPPLEMENTAL RESPONSE" was filed, August 24, 2006.

Additionally, a review of the application history reveals that applicants filed a Request for Continued Examination on September 27, 2007, three months and 56 days after the date of the mailing of the final Office action on May 2, 2007. As applicants failed to engage in reasonable efforts to conclude processing or examination of the application within the meaning of 37 CFR 1.704(b), a period of reduction of 56 days is warranted.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is **276 days** (418 days of Office delay - 142 days of applicant delay).

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the \$200.00 fee as set forth in 37 CFR 1.18(e). The Office thanks applicant for applicants' good faith and candor in bringing this to the attention of the Office.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicant will be notified in the Issue Notification letter that is mailed to applicant approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries

Senior Legal Advisor

Office of Patent Legal Administration

Office of the Deputy Commissioner

for Patent Examination Policy

Enclosure: Copy of updated PAIR screen

Day: Sunday Date: 7/20/2008

Time: 10:27:28

PALM INTRANET

PTA Calculations for Application: 10/063578							
Application Filing Date:	05/03/2002	PTO Delay (PTO):	418				
Issue Date of Patent:		Three Years:	0				
Pre-Issue Petitions:	0	Applicant Delay (APPL):	34				
Post-Issue Petitions:	0	Total PTA (days):	276				
PTO Delay Adjustment:	-108						

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File Contents History							
Number	Date	Contents Description	PTO	APPL	START		
109	07/20/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		108			
89	12/12/2007	MAIL NOTICE OF ALLOWANCE					
88	12/10/2007	ISSUE REVISION COMPLETED		*			
87	12/10/2007	DOCUMENT VERIFICATION					
86	12/10/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED					
85	12/10/2007	NOTICE OF ALLOWABILITY					
83	09/27/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED					
82	09/13/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED					
80	09/27/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED					
79	10/05/2007	DATE FORWARDED TO EXAMINER					
78	09/27/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE					
77	10/05/2007	DATE FORWARDED TO EXAMINER					
76	09/27/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)					
75	10/05/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)					
74	09/27/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED					
73	09/13/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED					
72	09/27/2007	WORKFLOW - REQUEST FOR RCE - BEGIN					
71	05/02/2007	MAIL FINAL REJECTION (PTOL - 326)					
70	04/30/2007	FINAL REJECTION					
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69	02/02/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
68	02/20/2007	DATE FORWARDED TO EXAMINER			<u> </u>
67	02/02/2007	RESPONSE AFTER NON-FINAL ACTION		2	64
66	02/02/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
65.7	02/02/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
65	02/02/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
64	10/31/2006	MAIL NON-FINAL REJECTION			
63	10/30/2006	NON-FINAL REJECTION			
62	07/03/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
61	08/26/2006	DATE FORWARDED TO EXAMINER			
60	08/24/2006	SUPPLEMENTAL RESPONSE			
59.7	07/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
59	07/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
58	07/03/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			·
57	07/10/2006	DATE FORWARDED TO EXAMINER			
56	07/03/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE	·	- 0.	
55	07/10/2006	DATE FORWARDED TO EXAMINER			
54	07/03/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
53	07/10/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
52	07/03/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
51	04/19/2006	MAIL FINAL REJECTION (PTOL - 326)			
50	04/17/2006	FINAL REJECTION			
49	01/27/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
48	02/09/2006	DATE FORWARDED TO EXAMINER			
47	01/27/2006	RESPONSE AFTER NON-FINAL ACTION			
46.7	UCTT / / // /CDL1651	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	01/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
		300			

45	10/27/2005	MAIL NON-FINAL REJECTION			
44	10/17/2005	NON-FINAL REJECTION			
43	08/08/2005	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
42	08/11/2005	DATE FORWARDED TO EXAMINER			
41	08/08/2005	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
40	08/11/2005	DATE FORWARDED TO EXAMINER			
39	08/08/2005	APPEAL BRIEF FILED			
38	08/08/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
37	05/31/2005	CASE DOCKETED TO EXAMINER IN GAU			
36	05/13/2005	NOTICE OF APPEAL FILED		30	28
35	05/13/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	04/12/2005	MAIL ADVISORY ACTION (PTOL - 303)			
33	04/11/2005	ADVISORY ACTION (PTOL-303)			
32	03/14/2005	REFERENCE CAPTURE ON IDS			
31.7		INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	03/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30		DATE FORWARDED TO EXAMINER			
29	03/14/2005	AMENDMENT AFTER FINAL REJECTION			
28	01/13/2005	MAIL FINAL REJECTION (PTOL - 326)			
27	01/10/2005	FINAL REJECTION			
24	11/26/2004	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
23	11/26/2004	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
22	12/07/2004	DATE FORWARDED TO EXAMINER			
21	11/26/2004	RESPONSE AFTER NON-FINAL ACTION		2	19
20	11/26/2004	WORKFLOW INCOMING AMENDMENT IFW			
19	08/24/2004	MAIL NON-FINAL REJECTION	418		-1
18	08/23/2004	NON-FINAL REJECTION			
17	06/16/2004	CASE DOCKETED TO EXAMINER IN GAU			
16	06/03/2004	CASE DOCKETED TO EXAMINER IN GAU			
15	10.18////////////////	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
		CRF IS GOOD TECHNICALLY / ENTERED INTO			

13	05/07/2002	DATABASE		
12	08/07/2002	CASE DOCKETED TO EXAMINER IN GAU		
11	08/05/2002	APPLICATION DISPATCHED FROM OIPE		
10	08/02/2002	APPLICATION IS NOW COMPLETE		
8	08/01/2002	CORRESPONDENCE ADDRESS CHANGE		
7	08/01/2002	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)		
6	05/21/2002	IFW SCAN & PACR AUTO SECURITY REVIEW		
5	05/16/2002	IFW SCAN & PACR AUTO SECURITY REVIEW		
4	05/03/2002	INITIAL EXAM TEAM NN		
3	05/03/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT		
2	05/03/2002	ELECTRONIC FILING OF ORIGINAL APPLICATION PAPERS		·
1	05/03/2002	INITIAL EXAM TEAM NN		

Search	Another:	Applica	tion#	Seardi)
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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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